



United States Department of State

Washington, D.C. 20520

November 18, 2019

**UPDATES MADE SINCE THE GUIDANCE WAS LAST ISSUED ON JANUARY 18, 2019
ARE IN RED**

MEMORANDUM FROM THE UNDER SECRETARY FOR MANAGEMENT

TO: All Assistant Secretaries and Executive Directors

SUBJECT: Guidance on Operations during a Lapse in Appropriations

The purpose of this memorandum is to provide an integrated reference guide concerning Department of State operations before and during a lapse in appropriations. I strongly urge you to review this document. This supersedes the previous guidance issued January 18, 2019. A change sheet is available on page 5. **The Department's Lapse Plan Summary Overview, which includes overall numbers of furloughed and excepted employees, and significant Department activities, is available on page 7.**

During a lapse in appropriations, bureaus and offices operating with residual funding must follow Chapter 1 of this guidance, which includes restrictions on obligations, hiring, travel, and other operations. The impact of these restrictions may vary depending upon the availability of residual balances. Subject to these constraints, personnel should continue carrying out their normal duties when their bureau or program is operating under Chapter 1. Civil service part-time employees, PSCs, and WAEs should contact their supervisors and/or Executive Offices (as applicable) regarding whether they should continue to work during the lapse, as their work status is subject to the availability of funds.

In Preparation for a Potential Lapse in Appropriations [Section A at page 8]

The Executive Office (EX) of every bureau, regardless of source of funding, must take action in advance of a potential lapse in appropriations. This includes: denoting excepted/non-excepted status for every employee, providing an EX point of contact for lapse issues, and reviewing upcoming, funded travel to determine whether it meets the criteria described in the guidance. "Excepted" functions that may be continued in an absence of appropriations include those necessary for emergencies involving "the safety of human life or the protection of property," and those necessary for activities essential to national security, including the conduct of foreign affairs essential to national security. Please see the full guidance for further explanation of excepted functions. Bureaus must minimize the number of positions designated as excepted. Prior to a lapse in appropriations, bureaus should check to see if there are payments that can be made in advance, such as utility bills, apartment rent, and lease costs, etc.

Operating During a Lapse [Section B at page 11]

Once OMB has informed federal agencies that a lapse in appropriations has occurred and directed the initiation of orderly shutdown activities, much of the Department will commence shutdown procedures on the next business day. Those entities having available balances as identified by the Bureau of Budget and Planning (BP) and the Office of U.S. Foreign Assistance

(F) will continue to operate until their respective balances are insufficient to continue, as notified by BP. However, **all** Department entities and Department personnel are subject to certain rules and restrictions, including with respect to allowances, contracts, travel, representation events, speech-making and media engagement, communications within the Department, and building access. Please review the guidance for further information.

Operations Using Available Balances during a Lapse in Appropriations [Section C, Chapter 1 at page 18]

Those Department entities that have available balances in multi-year and no-year appropriations, trust funds, other permanent appropriations, fees, or the Working Capital Fund may continue operations subject to additional restrictions, until such balances are insufficient. All full-time, scheduled employees employed by these entities will continue to work, **carrying out their normal duties. Work status of other personnel categories, such as part-time employees, PSCs, and third party contractors is subject to the availability of funds. While operating under Chapter 1, ongoing work should not be separated into excepted and non-excepted functions, but those determinations remain relevant should a bureau or program move into Chapter 2.** Such entities must follow the rules and restrictions in Section B, as well as additional rules and restrictions in Chapter 1. Generally, for these entities, no new obligations should be made except for payroll, to protect life and property, and for reasons essential to national security. BP will closely and continuously monitor these available balances.

Commencing Shutdown Procedures [Section C, Chapter 2 at page 21]

Most of the Department will immediately commence shutdown procedures on the first workday following the lapse, which begins with non-excepted employees performing the functions necessary for an orderly suspension of non-excepted operations, and then being furloughed. The guidance provides details on the shutdown's impact on different types of personnel, training, allowances, contracts and grants, obligations and disbursements, and time and attendance reporting.

If you have questions not answered in this document, refer to the Furloughed Employee Handbook found on the Department of State's website: <https://www.state.gov/m/dghr/releases/index.htm> or the Lapse in Appropriations Frequently Asked Questions in Diplopedia at [http://diplopedia.state.gov/index.php/Lapse in Appropriations FAQs November 2019](http://diplopedia.state.gov/index.php/Lapse_in_Appropriations_FAQs_November_2019).

If you do not find the answer there, please contact your Executive Office, Management Officer, or LapseQuestions@state.gov.

You may also wish to review the Office of Personnel Management (OPM)'s furlough guidance at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/>.

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Changes made since guidance last issued on January 18, 2019

- Clarified language directing employees in Chapter 1 status to continue carrying out their normal functions. While work should not be separated into excepted and non-excepted functions when operating under Chapter 1, bureaus and employees should adhere to Section B's operating restrictions to minimize obligation of funds. (Pages 1, 2, and 18)
- Added new "Lapse Plan Summary Overview" required by OMB, which notes that residual balances would be sufficient for at least two weeks of operations. (Page 7)
- Added reminder that employees should print out latest SF-50 and W2 prior to shutdown, as these documents are generally needed to apply for unemployment (Page 9).
- Added reminder to obligate funding for known payments prior to a lapse (Page 9).
- Updated guidance on the use and approval of multi-year foreign assistance for completeness and consistency. (Pages 11 and 20)
- Overtime guidance has been clarified to be consistent with the Government Employee Fair Treatment Act of 2019. (Pages 11, 18 and 23)
- Updated guidance on hiring actions during a lapse. (Page 11)
- Updated allowances guidance to be consistent with the Government Employee Fair Treatment Act of 2019. (Page 12)
- Consolidated all allowances guidance in one section. (Page 12)
- Updated Emergency Visitation Travel policy (Page 13).
- Updated public affairs guidance to be more explicit about what activities may take place prior to a lapse and when operating under Chapter 1. (Pages 15-16)
- Updated guidance regarding training at FSI. (Page 19 and 26)
- Clarified language permitting civil service internal lateral reassignments and merit promotions initiated before lapse if personnel are available to process actions. (Page 19)
- Corrected discrepancies to clarify when petty cash reimbursements can be disbursed. (Pages 20 and 33)
- Added guidance on bureau-funded personnel operating during Chapter 1. (Page 20)
- Added new information about back pay for excepted and non-excepted employees and leave for excepted employees, consistent with the Government Employee Fair Treatment Act of 2019. (Page 23)
- Updated leave and pay guidance for U.S. Direct Hire Excepted and Furloughed Employees, EFMs, LE staff, WAEs, and part-time employees. (Page 23-25).
- Updated training guidance with regard to training being undertaken by program partners or implementers funded with multi-year foreign assistance and diplomatic engagement appropriations. (Page 27)

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- Updated training guidance to say Department of State employees (faculty and students) on detail to the National Defense University, the War Colleges, and other funded academic institutions who are conducting or participating in training at those institutions may continue training during a lapse in appropriations if the activity is excepted work. (page 27)
- Stated that employees may be excepted from furlough to make timely payments to contractors, grantees, or other vendors in accordance with the contract or grant. This change is based on an update to OMB's guidance. (Page 31)
- Updated sample letters to employees to notify them of potential position status changes during furlough period and the communications that will take place if such changes occur. (Pages 35, 42, and 44)

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Department of State Lapse Plan Summary Overview

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required for employees to complete shutdown activities:	<i>0.5 days</i>
Total number of agency direct-hire employees expected to be on board before implementation of the plan (data as of January 17, 2019)	<i>27,855</i>
Total number of agency employees occupying “excepted” positions (data as of January 17, 2019)	<i>5,743</i>
Brief summary of significant agency activities that will continue during a lapse because they are necessary to national security or because residual balances are available:	
<ul style="list-style-type: none"> Worldwide Security Protection activities, including Diplomatic Security, Medical Services, and cybersecurity activities will continue operations for at least two weeks from residual balances, and then subject to a determination activities necessary for national security or protection of life and property Consular operations domestically and abroad will remain 100% operational as long as there are sufficient fees to support operations. This includes passports, visas, and assisting U.S. citizens abroad. Hiring of new Foreign Service officers will continue, subject to residual balances. All U.S. embassies and consulates abroad will be operational for national security reasons. Other State Department direct-hire employees will continue activities for at least two weeks from residual balances. 	
Brief summary of significant agency activities that will cease during a lapse:	
<ul style="list-style-type: none"> Making new obligations for grants and contracts, except to protect life and property, and for reasons essential to national security, including the conduct of foreign affairs essential to national security. Commencing new, official travel, except for national security purposes and excepted functions. Personal travel may continue. Holding speeches or representational events (unless approved as supporting excepted functions) Participating in social media (except in support of excepted activities). Providing or participating in training (except for specific training of personnel deploying to high risk, high threat posts, or for funded activities). Employing annuitant or seasonal employees. Making new Civil Service job offers. 	

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All Department Entities and Personnel: In Preparation for a Potential Lapse in Appropriations

Denote Excepted/Non-Excepted Status for Every Employee

Prior to a lapse in appropriations, the Executive Directors of all bureaus are responsible for determining which of their positions are excepted and non-excepted, and entering that information into the GEMS Furlough application. Even those Department entities that have funds and will operate under Chapter 1 must complete these processes in preparation for the possibility of a lapse in appropriations.

“Excepted” or “non-excepted” status depends exclusively on the duties of the position. In Department entities that have funds (Chapter 1), both excepted and non-excepted employees will continue working. In entities that do not have available balances (Chapter 2), only excepted employees will continue working.

Employees designated as performing excepted functions should be the minimum number necessary to execute those functions.

Definition of Excepted Functions: “Excepted” functions that may be continued during a lapse in appropriations include those necessary for emergencies involving “the safety of human life or the protection of property,” and those necessary for activities essential to national security, including the conduct of foreign affairs essential to national security. Activities beyond the scope of this definition cannot be undertaken without the approval of M.

Examples of excepted functions would typically include participation in peace negotiations, multilateral conferences where the absence of a U.S. delegation could lead to a setback on critical issues, and activities necessary to support the Secretary of State’s travel or participation in meetings. There may under limited circumstances be certain functions that must continue because they are “necessarily implied” from the authorized continuation of other activities, such as activities to ensure appropriate oversight over previously funded foreign assistance programs. A function should not be treated as excepted simply because a delay or failure to complete a function will incur additional costs (e.g., through cancellation of travel that must take place later).

Employees performing “excepted” functions will continue to report to work and perform their excepted duties.

The Bureau of Human Resources (HR) has developed an automated furlough notification functionality in the Global Employment Management System (GEMS) to assist bureaus with the administrative tasks associated with a lapse in appropriations. This new notification functionality eliminates the need for bureau Executive Offices to print out furlough letters for Department employees who have an active account in Human Resources Online (HR Online). Bureau Executive Directors must use “Lapse in Appropriations,” which is part of the furlough functionality in GEMS, to denote which positions are excepted and non-excepted, as well as identify positions that have residual funding and will continue to work (see Chapter 1, and page

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50 for a list of bureaus that will initially have residual funding during a lapse in appropriations).

Every executive bureau, regardless of source of funding, must take action in advance of a potential lapse in appropriations. The **Maintain Excepted Positions** page in GEMS allows Bureau Executive Directors and their delegates to view and manage excepted position designations for Department of State employee and non-employee positions in the case of a lapse of appropriation. The Executive Director (or designated delegate) can identify which positions and/or employees will remain in active employment status, as well as specify non-employee (contractor) Excepted positions. The new Continuing Appropriation checkbox functionality has been added to identify non-excepted positions operating in bureaus with available balances (see Chapter 1 and page 50). Additionally, the Executive Director (or designated delegate) can generate the appropriate letters and reports within GEMS required for the furlough of non-excepted positions. A Furlough job aid is available on the HR Systems Online Resources webpage. Please ensure you review the definition of excepted functions in order to minimize the number of positions designated as excepted.

Informing Employees of Status: The Office of the Under Secretary for Management will inform HR when to notify employees of the status of their positions. If a lapse in appropriations occurs, the Deputy Under Secretary will then instruct HR to notify personnel in entities that will be in Chapter 2 at midnight on **November 21, 2019**. HR will send out an email with the appropriate furlough letter and unemployment compensation documents attached to all affected Department of State employees at their state.gov email addresses on the first business day immediately following the lapse and again every thirty days until the emergency furlough ends. **HR will also send a copy of that notice to employees' personal email accounts that are on file at the time of the lapse. It is especially important that employees who work in buildings or facilities that will close in the event of a lapse provide a personal email address to receive their email notice as they may be unable to enter their office to do so. The email will include a link that employees will use to verify receipt of the furlough letter. Affected employees on leave at the time of a lapse who have not provided a personal email address to receive electronic notice, and who do not have access to GO or a State Department-issued mobile device, must return to work on the date they were originally scheduled to return from leave to access their state.gov account and received the furlough notice.** Entities that initially will be in Chapter 1 (positions with the Continuing Appropriation box checked in GEMS) will NOT receive the automated furlough notifications until their respective Executive Offices have consulted with BP and determined when they will enter into Chapter 2 when residual balances are no longer available. At that time, the Executive Offices should uncheck the Continuing Appropriation checkbox in GEMS so that the affected employees can receive an automated furlough notification. **Executive Offices should remind employees to print out a copy of their latest SF-50 and W2 before the shutdown, as these documents are likely needed when applying for unemployment insurance.**

Review Known Priority Payments

All bureaus and posts should review known priority payments that can be made in advance of a lapse, including for utilities, mobile-device contracts, apartment rent and lease costs, educational travel and allowances, R&R, and high-priority travel. Please obligate funding for these purposes

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prior to a lapse. Regional bureaus should allot funding to posts well in advance of a potential lapse so that posts can make any needed obligations prior to a lapse in appropriations.

Chief of Mission (COM) Authority Regarding Other U.S. Government Agency Employees Abroad

Each U.S. government agency that has employees at post must determine which positions meet the criteria of "excepted" during a lapse in appropriations. It is the responsibility of each agency to inform its employees of their status. If an agency has determined that certain positions abroad do not meet those criteria, and that determination conflicts with the views of the COM, then the COM should attempt to resolve the matter directly with the parent agency concerned. Based on COM authority and the Department's foreign affairs responsibilities, the COMs and Department's judgment about what functions constitute the conduct of foreign relations essential to national security carries great weight. If needed, the COM may request additional guidance and assistance from the Office of the Under Secretary for Management.

The COM is responsible for ensuring that the most senior officials of other agencies at post are informed when the post will begin to implement lapse in appropriations procedures.

EX Point of Contact Before and During Lapse

Executive Offices should also provide BP with the name of a primary point of contact on lapse in appropriations matters to ensure an open and continuous line of communication before and during a lapse in appropriations.

Review Upcoming Travel

Executive Offices should review upcoming travel for direct hire personnel and locally employed staff that has been funded and determine whether it meets the criteria described under the definitions of excepted functions. To the extent possible, Executive Offices should inform travelers and/or posts of their determinations regarding planned travel in advance of the lapse

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Instructions for All Department Entities and Personnel During a Lapse

In order to minimize the expenditure of Federal resources during a lapse, all Department personnel should adhere to the following instructions, regardless of whether a Department entity has funds or whether personnel are excepted.

- The Metrocheck program will continue to support those personnel who were already enrolled in the program prior to the lapse and required to work during the lapse through at least **December 31, 2019**. New applications for the Metrocheck program cannot be processed during the lapse;
- ~~No overtime is authorized; consistent with collective bargaining agreements, supervisors may seek volunteers from among excepted employees to work in exchange for compensatory time;~~ Overtime is generally not authorized, except in very limited circumstances, and upon approval from the Under Secretary for Management and after consultation with L/EMP, to the extent that it is consistent with collective bargaining agreements, the Fair Labor Standards Act, and when applied to LE staff consistent with local law. Supervisors may seek volunteers from among excepted employees to work in exchange for compensatory time;
- No new offers of employment may be made during the lapse period;
- ~~Job announcements, issuing certificates, hiring selections, and tentative offers are permitted; internal reassignments and promotions initiated prior to the lapse are permitted, provided personnel are available to process them;~~
- For Department employees on details to other agencies affected by a lapse in appropriations, employees should coordinate with their home bureau;
- Other agency employees on detail to the State Department should check with their home agency for instructions;
- Accommodation exchange services and cashier replenishments will continue at overseas posts;
- Bureaus may not exceed residual balances made available from prior year appropriations or permanent authorities, as identified by BP or F;
- No new obligations should be made except for payroll, to protect life and property, and for reasons essential to national security, including the conduct of foreign affairs essential to national security. This includes no new obligations for purchases of equipment, services, or supplies.
- Bureaus and entities that are managing multi-year foreign assistance programs can make new obligations for activities from residual balances in coordination with F, ~~including to avoid disruptions that will cause significant adverse effects on foreign assistance programs.~~ For entities operating under Chapter 2, such obligations can only be made for **excepted activities**, including to avoid disruptions that will cause significant adverse effects on foreign assistance programs. ~~For entities operating under Chapter 1, such obligations may be made in accordance with the general instructions for All Department Entities and Personnel in this section (B). (See pages 18 and 27 for more information).~~

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This section provides instructions on the following additional topics:

- i. Allowances
- ii. Contracts
- iii. Travel
- iv. Representational Events
- v. Speech-making and Media Engagement
- vi. Communications within the Department
- vii. Building Access

i. Allowances

The following allowances will continue for all employees ordinarily eligible to receive such allowances, **but depending on the availability of a bureau's residual funding (based on the overall funding account), allowances may not be paid until after the lapse is over:**

- Housing and utilities abroad
- Living Quarters Allowance
- Post Allowance (COLA)
- Home Service Transfer Allowance
- Foreign Transfer Allowance
- Temporary Quarters Subsistence Allowance (TQSA)
- Separate Maintenance Allowance
- Subsistence Expense Allowance (paid in the event of an evacuation)
- Extraordinary Quarters Allowance
- **Education Allowance**
- **Educational Travel**
- **Travel for children of separated families**

See page 50 for a list of funding accounts that will initially have residual funding during a lapse in appropriations, as well as a list of accounts without residual funding.

~~See Chapter 2, iv for information on allowances that will not continue for personnel employed by entities that no longer have funds. Personnel who are funded from accounts in Chapter 1 will continue to receive all allowances that they receive under normal circumstances.~~

ii. Contracts

Contractors/grantees shall continue to perform with Contracting Officer Representative (COR)/Grants Officer's Representative (GOR) oversight under the terms of their contracts/grants until the obligation has been liquidated, unless the post/domestic/contracting/grant-making activity cannot provide adequate oversight of contract/grant performance during a shutdown period by excepted employees. All requisitions, including those for any new and continuing services, should be submitted to your contracting/grants officer with the notation "subject to the availability of funds" appearing clearly, as is the usual practice. However, under no circumstances may a purchase order or contract/grant award be authorized or made without

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sufficient funds being available at the time the obligation is incurred (unless otherwise permitted under Chapter 1 and 2 guidance).

iii. Travel

This section applies to travel for U.S. direct hire personnel and locally employed staff. Travel that is part of a program funded by a multi-year foreign assistance appropriation is not subject to these guidelines. However, guidance related to new foreign assistance obligations continues to apply. Further, prior to initiating travel, program managers should seek policy guidance from the DCM or A/S confirm the program travel should continue as policy matter.

PCS: Reassignment of personnel already planned may be continued, such as Permanent Changes of Station (PCS), if funds have been previously obligated. In very limited and exceptional circumstances, HR/EX may authorize new PCS orders.

Medevac: All medical evacuations (Medevac) will continue. For medical emergencies, medical travel and services obligations can be incurred. Please coordinate with the Bureau of Medical Services (MED), the Office of the Under Secretary for Management (M), and the Bureau of the Comptroller and Global Financial Services (CGFS) in emergency situations where payment is required immediately.

All other travel: All other travel by U.S. direct hire personnel and locally employed staff commencing on or after **November 21**, 2019, regardless of whether funds have been obligated, requires approval from leadership. For management family bureaus, the Assistant Secretary is the approving authority; in all other bureaus, it is the Principal Deputy Assistant Secretary (PDAS). At posts, Deputy Chiefs of Mission (DCMs) are the approving authority for mission personnel, and COMs may approve DCMs' travel. COMs generally should not travel; anyone seeking an exception must obtain the approval of the regional bureau Assistant Secretary. Special Envoys reporting to the Secretary may obtain approval through S/ES.

All travel other than PCS should be limited to that necessary for emergencies involving the safety of human life or the protection of property, or that necessary for activities essential to national security, including the conduct of foreign relations essential to national security (see "definition of excepted functions" in Section A).

Emergency Visitation Travel (EVT): EVT is considered "All other travel." **During a lapse in appropriations, EVT travel to assist in the care of a parent(s) may be approved on a case by case basis where the excepted function standard is met. Please contact HR Employee Relations at EmergencyVisitationTravel@state.gov prior to traveling to confirm if the travel may be approved during the lapse. Once the lapse in appropriations is over, EVT will be generally approvable if it meets the criteria in 3 FAM 3740. Generally and based on the details provided, EVT travel to assist in the care of a parent(s) does not meet the criteria of "safety of human life" to allow travel to be funded by the USG during a lapse in appropriations. If an employee must travel before the lapse is over, they may personally fund the travel and request reimbursement**

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~~after the lapse in appropriations has ended. The employee must ensure that their trip meets Fly America requirements in order to receive reimbursement.~~

In transit: Anyone who is in transit at the time of the lapse should continue to the planned destination.

In travel status abroad: If personnel are in travel status abroad at the time of the lapse and work for an entity that has funds (Chapter 1), they should continue working normally. Personnel who work for entities in Chapter 2 and are in excepted positions may continue performing excepted functions. (See Section A for a definition of excepted functions). Personnel who work for entities in Chapter 2 and are not performing excepted activities should stop working and await further instructions; they will be placed on furlough. Because funding for travel abroad is obligated when the travel commences or when any cost was incurred for the travel (i.e., prior to the lapse) and because we are hopeful that any hiatus in funding will be temporary, personnel in non-excepted travel status abroad should not return to their home duty stations until their previously scheduled return trip or until they receive instructions to return earlier from their Executive Directors, Management Counselors, or supervisors. Their lodging and per diem will continue to be paid for the remainder of their trip.

In domestic travel status: Personnel in domestic travel status who are not performing excepted functions should make arrangements to return or deploy to their duty city as soon as informed by the bureau involved. Personnel in domestic travel status who are performing excepted functions may continue to do so. Students in domestic training and on authorized travel orders should follow the guidance in Chapter 2, iii. Assuming that a valid obligation has been established prior to midnight on **November 21**, 2019, personnel in non-excepted positions should continue to receive per diem domestically. See Chapter 2, vi for more information regarding obligations and disbursements.

Home leave: Personnel on home leave will be considered non-excepted. They will be placed in furlough status unless 1.) the entity for which they work is in Chapter 1; or 2.) they are notified by post that their position is excepted and post asks them to return to post for the needs of the service. Personnel who were supposed to be on home leave but are furloughed instead will follow the guidance for furloughed employees. The employee should contact the losing post to discuss what travel actions post would like them to take. The travel to/from the United States will be considered as the home leave being taken and if the amount of home leave taken and reported is below the minimum level, a waiver may be requested due to the needs of the service.

R&R: Employees who are on rest and recuperation travel (R&R) at the time a lapse occurs may complete their R&R, and return to post when scheduled. Employees who work for entities operating in Chapter 1 will be paid as usual. Those who work for entities operating in Chapter 2 will be placed on furlough. If their positions are excepted, they should return to work upon returning to post. Posts may also direct them to return sooner for the needs of the service if no one else is available to perform the excepted function in their absence. If their positions are non-excepted, they should remain on furlough upon returning to post. Employees who return to post earlier than scheduled to perform excepted work will not be eligible for an additional R&R to replace the shortened trip. Recognizing the unique nature of our overseas workforce, employees

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in furlough status who have approved R&R but have not yet left may travel if funding had already been obligated prior to the lapse. They will remain on furlough status during the R&R. Should the employee occupy an excepted position and Post leadership believes no other employee could temporarily fill the excepted position, the R&R would be cancelled, but may be rescheduled for a later date.

iv. Representational Events

Domestic Representation: As a general rule, no domestic representation events should be held during a lapse in appropriations period. Events already scheduled should be cancelled and no new events planned until the shutdown is over. If you believe there are truly exceptional circumstances that merit a representation event being held during the shutdown period, you should contact the Office of the Under Secretary for Management for approval.

Representation Abroad: As a general rule, no representation events should be held abroad during a lapse in appropriations. COMs may authorize the use of representational funds on an exceptional basis when necessary for activities essential to national security, including the conduct of foreign affairs essential to national security, but should consult with the Office of the Under Secretary for Management. COMs should consider the perception of a representational event during a Department shutdown. While the Department cannot pay invoices for representational events during a shutdown, personnel should seek reimbursement once appropriations have been restored. See Chapter 2, VI.

v. Speech-Making and Media Engagement

Definition of Excepted Functions with regard to Public Affairs:

Under the Department's guidance on operations during a lapse in appropriations, "excepted" functions that may be continued during a lapse in appropriations include those necessary for emergencies involving the safety of human life or the protection of property, and those necessary for activities essential to national security, including the conduct of foreign affairs essential to national security.

Examples of excepted functions would typically include participation in peace negotiations, multilateral conferences where the absence of a U.S. delegation could lead to a setback on critical issues, and activities necessary to support the Secretary of State's travel or participation in meetings. There may under limited circumstances also be certain functions that must continue because they are "necessarily implied" from the authorized continuation of other activities. A function should not be treated as excepted simply because a delay or failure to complete a function will incur additional costs (e.g., through cancellation of travel that must take place later).

Examples of excepted public messaging activities include press interviews by the Secretary on foreign policy priorities; public communication during periods of strife; and outreach promoting the U.S. position on a priority foreign policy issue for a time-sensitive outcome. Non-urgent

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public messaging – including that without a national security imperative – should be deferred during the lapse in appropriations.

Under Secretaries, Assistant Secretaries, and Chiefs of Mission have the authority to determine which public messaging activities qualify as “excepted activities” for themselves or their staffs and bureaus, under the relevant standards outlined above. For questions, guidance, or clarification on whether an interview, speech, social/digital content or other public messaging activity is considered “excepted,” please contact the Principal Deputy Assistant Secretary in the Bureau of **Global** Public Affairs, cc: the **GPA** Special Assistants.

Public Messaging Guidance Under Chapter 1 During a Lapse in Appropriations

When operating under Chapter 1 of the guidance and/or in the time leading up to a lapse in appropriations, Global Public Affairs activities will continue, keeping in mind the restrictions in Section B of this guidance (see page 11). Drafting press guidance and responding to media questions regarding both excepted and non-excepted functions may take place. Please keep in mind that there may be instances in which Bureau of Global Public Affairs employees are furloughed, while other bureaus may still be operational.

Public Messaging Guidance Under Chapter 2 During a Lapse in Appropriations

Speeches: As a general rule, all non-excepted speeches should be cancelled and no invitations to give non-excepted speeches should be accepted during the shutdown period. Approval for excepted speeches should follow the normal approval process for public speeches as outlined in 3 FAM 4170. Even if a speech is excepted, ensure that you consider the optics of the speech and its topic during the lapse in appropriations.

Media: The Bureau of **Global** Public Affairs may need to communicate with the media, via on-camera or off-camera briefings and/or the release of statements via traditional or social media means for excepted activities. All media interviews determined to be excepted should still follow the standard interview approval process as outlined in 3 FAM 4170. Chiefs of Missions may authorize engagement with local media at post, while any outreach to U.S. and international media with U.S. circulation must be cleared by the Bureau of **Global** Public Affairs.

Social Media: During the lapse in appropriations, only social media content in support of excepted activities may be posted by the Department and our missions overseas. Non-excepted social media content and operations must cease, including removal of all pre-scheduled non-emergency content.

During the lapse in appropriations, social media accounts may post this language and image as needed:

SECTION B

- Due to the lapse in appropriations, this (*identify whether Facebook, Twitter, Instagram, etc.*) account will not be updated regularly until full operations resume, with the exception of urgent safety and security information.
- At this time, scheduled passport and visas services in the United States and at U.S. Embassies and Consulates overseas will continue during the lapse in appropriations as the situation permits. We will not update this account until full operations resume, with the exception of urgent safety and security information. For information on our services and operating status, visit travel.state.gov.

vi. Communications within the Department

The Department will be minimally staffed if a shutdown occurs. Department managers and post managers are asked to reduce message traffic to include only the most urgent need. Remote access and mobile programs, to include fobs, secure laptop services, and centrally managed Blackberry support services will be minimally staffed. Additionally, due to reduced domestic staff levels, all personnel should be cognizant that there are fewer personnel available to respond to incoming messages. Personnel who are working should not expect responses from personnel who are furloughed and should postpone routine business that requires their participation or clearance until after they return to work. Furloughed personnel are instructed in the furlough letter to report to work the following business day after an appropriation has been enacted.

vii. Building Access

If a Department office is located in a government building affected by a lapse in appropriations, the facility may become unsupported. The continuance of operations in such instances will be treated on a case-by-case basis by the Office of the Under Secretary for Management

SECTION C

Specific Guidance Based on Availability of Funds

Chapter 1: Accounts with Available Balances

Once there is a lapse in appropriations, Departmental entities will continue operating using available balances in multi-year and no-year appropriations, trust funds, other permanent appropriations, fees, and the Working Capital Fund (i.e., ICASS) until these funds are insufficient to continue. During this time, operations will be restricted as noted in Section B above and on the following pages. However, all personnel employed by these entities will continue to work, **carrying out their normal duties while keeping in mind the operating restrictions in Section B (beginning on page 11). No overtime is authorized for employees in Chapter 1, except in very limited circumstances and upon the written approval from the Under Secretary for Management and after consultation with L/EMP, to the extent that it is determined to be consistent with collective bargaining agreements, the Fair Labor Standards Act, and when applied to LE Staff, consistent with local law. Supervisors may seek volunteers from among excepted employees to work in exchange for compensatory time only after consultation with L/EMP.**

Personnel encumbering positions in entities funded by multi-year and no-year appropriations will not be furloughed and should not receive furlough letters. Availability of available balances to continue payroll is reviewed at the Department level, not at a post/bureau level.

If available balances in multi-year and no-year appropriations, trust funds, other permanent appropriations, fees, and the Working Capital Fund become insufficient or are exhausted during the lapse, then the shutdown plan detailed in Chapter 2 will become operative. BP and F will coordinate with these entities to determine if and when they need to move to Chapter 2 status.

Which entities operate under Chapter 1?

Consular operations domestically and abroad will remain operational as long as there are sufficient fees to support operations. However, if a passport agency is located in a government building affected by a lapse in appropriations, the facility may become unsupported. The continuance of consular operations in such instances will be treated on a case-by-case basis by the Office of the Under Secretary for Management.

Funding sources from which some entities will continue to draw funds, and therefore will begin the lapse in appropriations in Chapter One, are listed at Attachment E. Entities that receive their funding from other sources should communicate with BP to determine whether they will begin in Chapter 1 or Chapter 2. Operating status and available funding will need to be monitored continuously and closely, and appropriate planning must be continued. Please note that, due to reduced funding or revised authorities, the availability of residual balances may be different than what was in place for the previous lapse in appropriations.

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Funding will be subject to apportionment and allotment requirements. Those balances may be reprioritized and reallocated for use during a lapse in appropriations through the financial plan process or the reprogramming process for foreign assistance funds. Such resources remain subject to any spending plans or notifications previously submitted to Congress on their functions as well as statutory requirements regarding the reprogramming or transfer of funds, guidance from OMB, and any other relevant guidance.

Additional Rules and Restrictions

Note: unless otherwise noted, any exceptions must be approved by the Office of the Under Secretary for Management in writing:

Hiring and Promotions

- Prospective employees with a final offer letter and a firm start date may report to work if service provider and onboarding staff are available to process personnel actions and complete onboarding activities during a lapse;
- Civil Service career ladder promotions will be processed following normal procedures, **provided personnel are available to process the HR action**;
- Promotions for current locally employed staff that resulted from a vacancy announcement and that were scheduled to become effective after **November 21, 2019** are subject to Human Resources Officer determination after consideration of local law.
- Locally employed staff in training or developmental level positions will receive their promotions following normal procedures;
- Foreign Service administrative promotions (similar to GS career ladder) will be processed following normal procedures, **provided personnel are available to process the HR action**;
- All within-grade increases, including Merit-Based Compensation performance awards, **and promotions initiated before the lapse**, will continue to be processed following normal procedures, **provided personnel are available to process the HR action**;
- **Lateral transfers within the Department initiated prior to the lapse are permitted, provided personnel are available to process the HR action. Personnel should note that employees who laterally transfer may be subject to furlough depending on the bureau's funding status (see Attachment E);**
- **No new job offers (EODs) may be established, but tentative offers can be made, provided personnel are available to process the HR action. Personnel should note that employees who laterally transfer may be subject to furlough depending on the funding bureau's status (see Attachment E);**

Training

- ~~Most training at the Foreign Service Institute (FSI) will be cancelled (see Chapter 2).~~ Some training at the Foreign Service Institute (FSI) may be cancelled. Please check FSI's website for information on specific courses. Training at other locations previously scheduled, funded, and implemented by other Department entities operating under Chapter 1 may continue as planned. **However**, new training should not be scheduled. **Generally, training should not occur other than for excepted functions;**

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Time, Attendance and Leave

- All employees, including locally employed staff, may continue to take sick, annual, and home leave;
- Time and attendance procedures will continue as normal;

Bureau-funded personnel

- Bureaus should prioritize residual balances to enable continuation of the following personnel categories. Should bureau balances be insufficient, they should consult with BP or F on funding availability, subject to applicable reprogramming requirements.
 - LE staff
 - EFM/EPAPs
 - Pathway Interns
- PITs, WAEs and other non-scheduled employment categories are subject to the employing bureaus availability of funds.
- Unpaid interns may work, as long as they have appropriate supervision.

Financial Management

- Petty cash reimbursements may be filed, but no money can be disbursed until appropriations or a continuing resolution have been enacted **unless against an available multi-year or a no-year appropriation, trust funds, other permanent appropriations, or the Working Capital Fund;**
- New obligations of multi-year foreign assistance funds are allowed in coordination with F. Entities making such obligations must consider whether the obligation is appropriate from a policy perspective in conjunction with any relevant stakeholders. Normal F procedures remain in place for securing F approval of unreleased multi-year funds.
- For guidance on repatriation loans, see Chapter 2, Section VI, paragraph 12.

If Balances Become Insufficient

If and when residual balances in multi-year and no-year appropriations, trust funds, other permanent appropriations, fees, or the Working Capital Fund become insufficient, then the shutdown and furlough guidance detailed in Chapter 2 will become applicable to positions and operations covered in Chapter 1.

Chapter 2: Accounts without Available Balances

Chapter 2 applies to a scenario in which a single-year appropriation has lapsed or the respective residual balances in multi-year and no-year appropriations, trust funds, other permanent appropriations, or the Working Capital Fund are insufficient to continue. Only excepted functions will be continued until appropriations are restored.

Entities without available balances will immediately commence procedures detailed in this chapter on the first business day following notification that the Department is implementing shutdown procedures. Posts that do not operate on the day of a shutdown will immediately commence these procedures on the next business day in their host countries.

Chapter 2 contains a detailed plan on the following topics for operating during a lapse in appropriations:

- i. Orderly Shutdown of Non-Excepted Functions
- ii. Personnel
- iii. Training
- ~~Allowances~~
- iv. Contracts and Grants
- v. Obligations and Disbursements
- vi. Time and Attendance Reporting
- vii. Reopening After a Lapse in Appropriations

i. Orderly Shutdown of Non-Excepted Functions

First workday following lapse: All non-excepted employees scheduled to work on the first business day following a lapse in appropriations who do not have access to GO or a State Department-issued mobile device must report to work to commence an orderly shutdown and sign their furlough letters. The employee must then send an acknowledgement back to their EX office within four hours of receiving their furlough letter. Non-excepted employees with access to GO or a State Department-issued mobile device must check with their supervisors to determine whether they must report to work to complete orderly shutdown procedures. With their supervisors' concurrence, they may sign their furlough letters electronically and are not required to report to work if all other orderly shutdown activities are completed. All non-excepted employees scheduled to work on the first business day following a lapse in appropriations who do not have access to GO or a State Department-issued mobile device must also report to work to commence an orderly shutdown and sign their furlough letters. Non-excepted employees who are unable to communicate with their supervisors or do not receive an Employee Furlough Notification letter electronically must report to their duty stations. They must sign their letters and complete the orderly shutdown activities: those tasks necessary to safeguard property, records, and information and to complete administrative actions. Orderly shutdown activities include measures to secure files, notify parties of the cessation of normal business, and cancel non-essential meetings. We anticipate that these activities will take approximately four hours for most employees. After performing the functions necessary for an

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orderly suspension of non-excepted operations, employees performing "non-excepted" functions will be furloughed.

While furloughed: Managers are reminded that the Government cannot accept voluntary services – therefore, no employee may work if he or she is in a non-excepted status. These employees should monitor the OPM operating status website and the news for information on an additional continuing resolution and, unless told otherwise, should report back to work on their next scheduled workday once another continuing resolution or an appropriation bill is enacted (passed by the House and the Senate and signed by the President), unless told to do so earlier (e.g., for rotation or other purposes).

Employees are advised that “work” includes reporting to work as well as using fobs, iPhones, BlackBerrys, and teleworking. Non-excepted employees should only use Department-provided mobile devices to check for new information about the furlough, and excepted personnel should not communicate with non-excepted employees except to convey new information about the furlough.

In the rare event that any employee who is working communicates about anything other than work status with other employees, those may qualify as federal records and must be captured in a State Department system. This can be accomplished by adding their State.gov account to the CC line of an email or exporting the text messages and sending it to their State.gov email account.

Furlough letters: As noted in Section A, if a shutdown occurs, HR will send out an email with the appropriate furlough letter and unemployment compensation documents attached to all affected Department of State employees at their state.gov email addresses on the first business day immediately following the lapse. Management Officers should also advise their bureaus’ executive offices by cable of the names of non-excepted employees on leave or travel in the United States who are not expected back at post within two weeks of the furlough. Management Officers should confirm with each of these employees as they return to post that they have received notification. If any employees are visiting other posts, and contact names or email addresses are available, please contact that post for assistance in delivering the notice and getting an acknowledgement of receipt, citing this guidance in support of the request.

Employees assigned to training at FSI will be issued letters by FSI. Foreign Service employees in training between assignments should be marked “non-excepted” and issued their furlough letters by their losing posts. Employees who are on temporary training (e.g. they are not assigned to FSI and are in a short-term course) will receive their letters from the executive office of their home bureau. Other agencies at posts are responsible for providing furlough letters to their personnel.

~~For other non-excepted employees who cannot be contacted within two weeks due to lack of a contact address, please advise HR/Employee Relations (HR/ER) of their names and their expected date of return to the bureau or the post. If possible, HR/ER will try to locate these employees.—~~

The text of the Notice of Furlough for Civil Service employees is located in Attachment A. The text of the Notice of Furlough for Foreign Service employees is located in Attachment B.

ii. Personnel

An immediate hiring freeze will apply during a lapse in appropriations. Entry-on-board dates for prospective employees with employment offers are suspended until the funding lapse is over. No new job offers may be made.

U.S. Direct Hire Excepted Employees

Excepted employees generally are only permitted to work on those activities described in the “definition of excepted functions” in Section A. There may be cases in which an employee is required to perform this "excepted" support function intermittently throughout the course of the day, and the intervals in between are too short to enable the employee to be furloughed and then recalled in time to perform the function. In such cases, the employee may remain at work, and may perform non-"excepted" functions during these intervals. **Subject to the availability of appropriations, U.S. direct hire employees in excepted positions shall be paid for their work, at the standard rate of pay, at the earliest date possible after the lapse in appropriations ends (assuming we have missed a pay period), regardless of scheduled pay dates. Excepted employees who are absent from work will be furloughed during the relevant period of absence.**

U.S. Direct Hire Furloughed Employees

Subject to the availability of appropriations, U.S. direct hire employees furloughed as a result of the lapse in appropriations, and who was not scheduled prior to the lapse in appropriations to be in nonpay status, e.g., LWOP or suspension, will be paid at the standard rate of pay for the period of the lapse in appropriations at the earliest date possible after the lapse in appropriations ends (assuming we have missed a pay period), regardless of scheduled pay dates. Standard rate of pay includes basic pay, overtime and other premium pay for regularly scheduled work, regular premium payments, and allowances and differentials payable on a regular basis. WAEs, Expert/Consultants, and Seasonal Employees are not covered under this provision, as their status allows them to be paid only when working. They would not, therefore, have been furloughed, and are not entitled to paid, as they do not have a standard rate of pay. Other part-time employees with a standard rate of pay are entitled to pay for periods of furlough. Standard rate of pay refers to the rate of pay the employee would have normally received had the lapse in appropriations not occurred and the employee had performed work.

~~The Department will need to examine the text of any subsequent appropriation or continuing resolution to determine if the Congress has authorized retroactive pay and allowances.~~

All non-excepted personnel support activities, such as unfunded security investigations, should be suspended.

U.S. Direct Hire Leave and Other Paid Time Off Use and Charge

In general, paid leave (e.g. annual, sick, home, military leave, etc.) may not be used during a lapse in appropriations and all previously scheduled paid time off (e.g., compensatory time off earned in lieu of overtime pay, compensatory time off for travel, religious compensatory time off, credit hours under a flexible work schedule, or time off awards) is cancelled. Furloughed

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employees will not be charged any form of paid leave or other type of paid time off during a lapse in appropriations.

Advanced leave: An employee previously approved to be on advanced annual and/or advanced sick leave during the lapse in appropriations will also have this leave cancelled. Since employees would have been considered to be in a pay status during the advance leave period, they will be considered in a pay status during the lapse period and covered by the relevant retroactive pay provisions.

Leave accruals: Both furloughed and excepted employees will receive credit for any paid leave they would have otherwise (but for the lapse in appropriations) accrued during the period of the lapse once funding is provided.

LWOP: A furloughed employee is not entitled to retroactive pay for furlough periods if the employee had been previously (before the lapse) scheduled to be in nonpay status during those periods. This includes any period of regular leave without pay (LWOP) and LWOP under the Family and Medical Leave Act (FMLA).

AWOL: Employees who were directed to perform excepted work during a lapse in appropriations but failed to report to duty and who were subsequently placed in absent-without-leave (AWOL) status for missed work hours are not entitled to receive retroactive pay for the relevant AWOL period. To be clear, an excepted employee who does not report to work will not automatically be charged AWOL. What this section is saying is that, if such an employee is determined to be in an AWOL status, that employee will not receive retroactive pay for the relevant AWOL period.

Family Members and Locally Employed (LE) Staff at Post

Eligible Family Members employed at post follow the furlough procedures of other direct-hire U.S. government employees unless paid on the local pay plan. Application of the furlough to LE staff (including foreign nationals and locally resident U.S. citizens, whether on personal services agreements (PSA) or direct-hire appointments) depends on local labor laws in each country. In general, Department LE staff will be required either: a) to report to work as directed by their supervisor (i.e., if “excepted,” or if treated as “excepted” because these LE staff legally must be paid, provided that in no event may LE staff report to work if adequate supervision is unavailable); b) to be on excused absence leave per 3 FAM 7451, if LE staff must be paid under local labor law but may not actually work because, for example, adequate supervision is not available; or c) to be placed on ordinary furlough status.

HROs at each post in conjunction with post management will make appropriate, post-specific determinations consistent with local labor law. Before furloughing any LE Staff, post must have documentation that such furloughing is consistent with local law and, as necessary, must consult with local counsel. The Management Officer should inform other U.S. government agencies at post that, as in the past, the Department plans generally to treat those LE staff members as excepted whom the Department believes must be paid under host state labor laws regardless of attendance.

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LE Staff encumbering excepted positions shall be paid for their work, at the standard rate of pay, at the earliest date possible after the lapse in appropriations (assuming we have missed a pay period), regardless of scheduled pay dates. LE Staff designated as excepted or in excepted positions may use leave during the lapse.

LE Staff furloughed as a result of the lapse in appropriations shall be paid, at the standard rate of pay, for the period of the lapse in appropriations at the earliest date possible after the lapse in appropriations (assuming we have missed a pay period), regardless of scheduled pay dates.

Presidential Appointees

According to OPM, individuals appointed by the President, with or without Senate confirmation, who otherwise are not subject to 5 U.S.C. 6301 and attendant regulations governing leave in the Federal service, are not subject to furlough. The salary of such a Presidential appointee is an obligation incurred by the year, without consideration of hours of duty required. Thus, the Presidential appointee cannot be placed in a nonduty, nonpay status. If a Presidential appointee, however, chooses to be in a nonpay status, the appointee may return part of his salary to the employing agency, provided that the agency has authority to accept gifts, or to the Treasury. Regardless of the Presidential appointee's choice, the appointee's entire salary is recorded for tax purposes. The following exceptions must be noted: former career Senior Executive Service (SES) appointees who took appointments at level V of the Executive Schedule or higher and elected to retain SES leave benefits under 5 U.S.C. 3392(c), are subject to furlough at the discretion of the agency. Also, Presidential appointees to positions requiring Senate confirmation, for example ambassadors, who choose to retain SFS/SES pay and benefits are subject to furlough at the discretion of the responsible Assistant Secretary, e.g. when absent on leave.

Note re: Presidential Appointees and GEMS: The GEMS Furlough module was not designed to capture this category of employee (e.g. not subject to furlough) and no exact solution is available in the system. As an expedient fix, HR recommends marking positions for Presidential Appointees as "Excepted" for the duration of any shutdown, regardless of whether they are on-leave or at work.

Part-Time Employees

Part-time employees should follow the same guidance as full-time employees.

WAE Employees, Expert Consultants, and Seasonal Employees

Employees with a When-Actually-Employed (WAE) work schedule, **including expert consultants**, and seasonal employees are called to duty at identified periods of the year in accordance with pre-established conditions. WAE employees **and expert consultants** are non-full-time employees without a regularly scheduled tour of duty. A seasonal employee is an employee hired into a position for which the customary annual employment is six months or less. Whether either group is called for work during the period in which furloughs are scheduled is discretionary with agencies, but those personnel must be performing excepted functions.

Rotation of Personnel

The decision to rotate personnel to perform excepted functions may be made at bureau and post discretion in unique and compelling circumstances. However, the following should be taken into consideration when making a decision on rotations:

- Managers should take into account the potential impact on unemployment compensation eligibility for the employee, based on local jurisdictions' unemployment insurance policies.
- Decisions on rotations for specific positions should balance the Department's need for continuity and equity to the employees.
- Posts may determine on what basis rotations may take place (based on increments of at least one week), but due consideration should be given to continuity and fairness.
- Personnel rotated into and out of an excepted function must have the requisite qualifications to perform the function.

All decisions to rotate employees must be documented by the bureau or post.

Details

Detailees follow the furlough policies and procedures of their home agencies because they remain officially employed by their home agencies. If you are detailed from the State Department to another federal agency, the State Department will determine if and how you are affected. For more information and for details involving non-Federal agencies, refer to OPM guidance.

Interns

Paid interns are treated the same as other employees. They must report to work if they perform exempted duties or be furloughed if they perform non-exempted duties. Unpaid interns may work regardless of excepted or non-excepted status, as long as they are working under the supervision of an excepted employee.

iii. Training

In accordance with the shutdown plan, ~~some most training at the~~ Foreign Service Institute (FSI) and FSI field offices ~~will be cancelled. Select excepted training will continue, related to national security and mandatory training – both in-person and online – and will be posted on the FSI website.~~ , and all other domestic facilities will be closed, except those portions of the Diplomatic Security Training Center and FSI's National Foreign Affairs Training Center campus housing employees performing excepted functions Crisis Management Training and Antiterrorism Assistance Training that has already started at abroad posts may continue if posts are open, subject to the approval of the Chief of Mission since this pertains to the safety and security of personnel. Also, training being undertaken by program partners or implementers

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~~funded with multi-year foreign assistance and diplomatic engagement appropriations may continue if funds are available.~~

Domestically, the following courses will continue as scheduled since they pertain to the safety and security of personnel going to Afghanistan, Iraq and other posts of heightened danger: Afghanistan Familiarization (RS415); Iraq Familiarization (FT610); for those deploying to posts where it is mandatory, the Diplomatic Security Training Foreign Affairs Counter Threat Course (CT650); and Green Team Training and In-Service Training for Mobile Security and the High Threat Operations Course for Agents going to High Threat Environments. Crisis Management Training at posts abroad may continue if posts are open, subject to the approval of the Chief of Mission since this pertains to the safety and security of personnel.

~~In general, Department of State employees (faculty and students) on detail to the National Defense University, the War Colleges, and other funded academic institutions who are conducting or participating in training at those institutions only conduct or participate in those trainings during a lapse in appropriations if their activities at those trainings meet the Department's definition of 'excepted' functions. If they do not, then during a lapse in appropriations, these employees must be furloughed. The Under Secretary for Management will determine whether conducting or participating in specific trainings constitutes an excepted function. do not occupy positions that meet the Department's definition of 'excepted' functions/positions. During a lapse in appropriations, these employees must be furloughed.~~

All other class attendance funded or executed by Department entities in Chapter 2, domestically and abroad, will be suspended. This applies to all training, except as noted above, whether conducted by Department employees or contractors. Other security-related training may be continued subject to the specific written approval of the Office of the Under Secretary for Management.

Those domestic personnel in training whose positions are excepted should return to their positions; those whose positions are not so designated will be furloughed. Personnel normally working abroad who are in training in the United States will be furloughed. Personnel in domestic travel status who are not performing excepted functions should make arrangements to return or deploy to their duty site as soon as told to do so by their bureau senior leadership. For FSI students funded from an account with available balances, students may conduct self-study off FSI campus during the lapse. Personnel in domestic travel status who are performing excepted functions may continue to do so. Similarly, employees enrolled in training conducted by entities outside the Department should not attend class and should be treated as stated above.

See Section B, Travel, for questions regarding per diem funding for personnel in long-term training.

Program Training for Non-U.S. Direct Hire Audiences

~~Training being undertaken by non-U.S. government direct-hire program partners or implementers funded with multi-year foreign assistance and diplomatic engagement appropriations may continue if funds are available.~~

iv. Allowances

~~Allowances for persons in excepted and non-excepted positions will generally continue, but depending on the availability of residual funding, allowances may not be paid until after the lapse is over.~~

~~The following allowances for persons in non-excepted positions will not be paid during a furlough:~~

- ~~• Post Differential~~
- ~~• Danger Pay (We assume that all or nearly all positions at danger pay posts would be excepted.)~~
- ~~• Representation Allowance~~

~~The following allowances, regardless of whether the person is in an excepted or non-excepted position, may be provided if Post has sufficient residual balances to cover expenses:~~

- ~~• Education Allowance~~
- ~~• Educational Travel~~
- ~~• Travel for children of separated families~~

iv. Contracts and Grants

As the Government Accountability Office has long recognized, funding gaps due to lapses in appropriations raise particularly thorny issues in the area of contractual commitments, where generally applicable Anti-Deficiency Act requirements may be in apparent conflict with orderly shutdown activities and with continuation of excepted functions. The following guidance is directed toward providing a framework for consistent treatment of contractual commitments by Department contracting activities and posts abroad that is consistent with the overall Department shutdown plan and that will minimize ultimate costs and disruptions.

Adequate Funding Previously Obligated: Previously awarded contracts that continue in performance during a lapse in appropriations and have **adequate funding previously obligated** to permit continued performance during a shutdown period should generally be permitted to continue unless the post/contracting activity cannot provide adequate oversight of contract performance from an excepted Contracting Officer Representative (COR)/Grants Officer's Representative (GOR) during a shutdown period by excepted employees. If adequate monitoring of contractor performance cannot be provided, suspension or reduction in performance of non-excepted services should be considered if authorized by the terms of the contract or if the contractor will negotiate such a suspension or reduction. Care should be taken not to incur unnecessary costs or jeopardize the Government's future contractual rights by unilateral stop work orders or directions to reduce the scope of work that are not authorized by the terms of the contract or that will cause the contractor to incur costs that could subsequently be charged to the government. If circumstances require further guidance, consult L/BA per paragraph G below.

Renewal or Modification Required: For domestic offices, previously awarded contracts and leases that would, in the absence of funding, require **renewal or modification** during a lapse in appropriations to obligate additional funds for continued performance may be authorized to continue only if necessary to support excepted activities authorized for continuance under the Department's shutdown plan or if genuinely needed to protect Government property or human safety. The necessity for such renewals or modifications must be certified to the contracting officer by the Deputy Chief of Mission at post, the PDAS (in the regional and functional bureaus), or the Assistant Secretary (in the management bureaus) with a written statement of the basis for such necessity. Post Financial Management Officers and bureau Executive Directors must certify that funds are available within the annual financial plan targets provided by BP and F. Incurring unfunded obligations for such services during a funding gap does not violate the Anti-Deficiency Act, but payment of such unfunded obligations must be deferred until appropriations are provided by the Congress.

New Contractual Commitments: New contractual commitments during a lapse in appropriations may be made only if necessary to support excepted activities authorized for continuance under the Department's shutdown plan or if genuinely needed to protect Government property or human safety. The necessity for such unfunded commitments must be certified to the contracting officer by the Deputy Chief of Mission, the PDAS, or Assistant Secretary (as previously described) with a written statement on the basis for such necessity. Additionally, Financial Management Officers and Executive Directors must certify that funds are available within the annual financial plan targets provided by BP and F (refer to Section 6, Obligations and Disbursements for further details). Additionally, Financial Management Officers and Executive Directors must certify that funds are available within the annual financial plan targets provided by BP and F. Unfunded contractual commitments should be kept to the minimum in cost and duration that will meet the essential need.

Grants or Federal Assistance Agreements: You should not enter into any new grants or Federal Assistance agreements during the period of a lapse in appropriations. Previously awarded grants or Federal Assistance agreements that continue in performance during a lapse in appropriations, and have adequate funding previously obligated to permit continued performance during a shutdown period, should generally be permitted to continue and the responsible entity should continue to provide adequate oversight of award performance during a shutdown period. If adequate monitoring of recipient performance cannot be provided, suspension or reduction in performance services should be considered by the Grants Officer if authorized by the terms of the award or if the recipient will negotiate such a suspension or reduction. Care should be taken not to incur unnecessary costs or jeopardize the government's future rights by unilateral stop-work orders or directions to reduce the scope of work that will cause the recipient to incur costs that could subsequently be charged to the government. If a grant for foreign assistance activities is expected to require additional funds during a lapse in appropriations to avoid a disruption that will cause significant adverse effects, please consult F as far in advance as possible to identify potential options. If circumstances require further guidance, consult L/LFA per paragraph H below.

Unfunded Leases: You should suspend unfunded non-real estate leases during the period of a funding lapse, unless necessary to support excepted activities.

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OBO funded: You may continue previously awarded construction and renovation projects for which adequate funds were obligated unless adequate supervision cannot be provided, in which case consider suspension of work if contractually permitted and practically feasible. Bureau of Overseas Buildings Operations (OBO) funded leases and real estate purchases may continue under regular rules and procedures.

Personal Services Contractors (PSC): If a PSC contract is funded, the PSC should not be furloughed, as long as there are excepted or funded employees available to supervise the PSC's work. PSCs whose contracts are funded may perform their duties, including non-excepted functions. Should a PSC contract exhaust their funding, bureaus should then determine whether they are performing excepted functions that may be authorized to continue despite a lack of funding.

Unobligated But Available Multi-Year Foreign Assistance Funding: To the extent multi-year foreign assistance funds are available but have not been obligated by Bureaus and Posts operating under Chapter 2, Bureaus and Posts should determine if the obligation of funds meets the excepted criteria. Regular approval processes remain in effect through the Office of U.S. Foreign Assistance Resources (F). Should a bureau or Post anticipate a requirements for available multi-year foreign assistance funding, Bureaus and Posts should contact F as soon as possible to ensure funds can be approved expeditiously to minimize any programmatic impacts for excepted needs.

Contracting Questions: You should consult L/BA, preferably by e-mail or facsimile (703-516-1547) with contracting questions arising in connection with guidance in this section.

Federal Assistance Questions: You should contact L/LFA, preferably by email, with Federal Assistance questions arising in connection with guidance in this section.

v. Obligations and Disbursements

Obligations

During any absence of FY 2020 appropriations, obligations against lapsed appropriations may continue to be incurred for excepted activities and as outlined in Chapter 2, v.

During a lapse in appropriations, the Department has legal authority to incur obligations to continue excepted activities. However, the incurred obligations should not be formally recorded (posted) in our accounting systems as there are no appropriations against which to record the obligations. Bureaus and posts must ensure that such obligations are not recorded in either RFMS or GFMS or sent to CGFS to be recorded in official accounts. Please note that obligations may be formally recorded for funding that falls under Chapter 1 guidance only.

Per OMB guidance, payments cannot be disbursed against lapsed appropriations for obligations incurred after the lapse begins. Disbursements can be made for obligations incurred before the lapse period.

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All obligations and obligating documents issued during the lapse period must be approved by the Deputy Chief of Mission, a Principal Deputy Assistant Secretary in the regional and functional bureaus, or an Assistant Secretary in the Management bureaus, and have the following statement affixed and signed by the DCM, Assistant Secretary, or PDAS, as applicable: "This obligation is necessary to carry out excepted activities in the absence of an appropriation or to perform activities for which funds are otherwise available."

Bureaus and posts should maintain detailed records of all obligations incurred that cannot be recorded at this time. As soon as obligation authority is obtained, all obligations should be recorded immediately.

Disbursements

Bureaus and posts can certify and CGFS can make payments against valid obligations established against prior year annual appropriations (including last Fiscal Year), and for current Fiscal Year obligations established through the end of any applicable Continuing Resolution. **Employees may be excepted from furlough to make timely payments to contractors, grantees, or other vendors in accordance with the contract or grant.** Bureaus and posts also can certify and authorize payments against valid obligations in no-year or multi-year appropriations, trust funds, other permanent appropriations, or the Working Capital Fund for which funding remains available. These payments should be routinely sent to CGFS for processing or entered by posts into RFMS.

Bureaus and posts cannot certify and authorize payments against Department of State obligations incurred after a lapse in appropriations against any current Fiscal Year lapsed single year appropriations. Again, obligations can be incurred for excepted activities but cannot be posted (formally recorded) in the Department's financial systems.

Specific Situations

The following are typical bureau/post obligation/payment categories and how they should be handled:

1. LE staff pay/allowances: Standard procedures to process LE staff payroll must be followed. Under no circumstances should alternate means be used to pay LE staff salaries, such as using petty cash. As per the above general guidance for obligations after a lapse in appropriations, no obligations for payroll after that date should be recorded on official accounts or in RFMS and GFMS, even for excepted activities. More detailed guidance on submitting time and attendance during the period of the lapse will be provided prior to the deadline for the next submission of time and attendance.

2. American Salaries, Benefits, and Allowances: While obligations may continue to be established for employees on US-based salary schedules performing "excepted" and shutdown

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activities, payments for salaries and allowances may only be made for services rendered prior to the lapse in appropriations.

3. Travel: Only travel in fulfillment of excepted activities can be initiated after a lapse of appropriations. Per guidance above, even in cases of travel in this category, obligations made after any lapse of appropriations should not be recorded on official bureau or post accounts even though obligations have been incurred. Blanket travel orders issued prior to the lapse in appropriations are not valid during the lapse period, unless in the case of travel abroad, travel commenced or any cost was incurred for that travel prior to the shutdown. No travel advances can be issued unless the obligation for travel abroad was incurred prior to the lapse in appropriations. Travel voucher reimbursements can be processed only if against obligations incurred and recorded for prior years, or for the current Fiscal Year (if obligated prior to the lapse in appropriations) multi-year or no-year appropriations for which funds remain available. Travelers who hold Citibank Travel Cards may charge advances against these cards for any approved trips as travel card advance charges do not create advances to official accounts. As part of GSA SmartPay cards, Travel Cards will continue to function normally and banks will continue to provide service. Cardholders, as usual, should contact the bank customer service organization should they experience problems with their cards. This does not apply to foreign assistance funded grant or contract travel.

4. Utilities: As with other categories of payments, utility payments for obligations established prior to the lapse in appropriations can be processed and sent to CGFS for payment or entered in RFMS. Obligations for utility costs after the lapse in appropriations should not be recorded even though incurred, and utility payments for periods after that cannot be made from lapsed appropriations. Posts confronted with any emergencies in this regard should contact the Department as soon as possible (see paragraph 13 below).

5. OBO Allotment Activities: Since OBO activities abroad (e.g., rents, maintenance and repair, fire/safety and capital projects) are paid from the no-year OBO appropriation, these activities can be obligated and paid if the post has sufficient funds in its OBO allotment. Salaries for facility managers and OBO direct-hire project staff at post are funded domestically from the no-year OBO appropriation; therefore, those personnel will continue to report to work and perform their duties as long as residual funding remains. Salaries for locally-hired OBO project staff are funded from post-held OBO allotments and can therefore be obligated and paid as long as post has sufficient funds in its allotment.

6. Representation: Reimbursements for representational events held prior to the lapse in appropriations may be certified and payments processed if funds are available within bureau or post representation allotment. Representational events taking place after the lapse of appropriations can only be reimbursed: 1) if they have been certified by the COM as required for activities essential to national security, including the conduct of foreign affairs essential to national security; and, 2) once the obligation has been legally posted in the Department's financial system after the lapse in appropriations has ended.

7. Purchase Order Payments: Generally, purchase order obligations and payments are to be governed by Chapter 2, v. Obligations for purchase orders prior to the lapse in

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appropriations that were recorded can have payments against these obligations processed. Obligations incurred for purchase orders after the lapse in appropriations, for excepted activities against lapsed current Fiscal Year appropriations cannot be recorded and payments against these obligations cannot be made.

8. Petty Cash Payments: Similar guidance applies to all categories of miscellaneous petty cash payments. A voucher can be paid if the obligation supporting it was incurred prior to the lapse in appropriations. For example, a petty cash reimbursement for taxi fares incurred prior to the lapse in appropriations can be paid. No petty cash reimbursement can be made for taxi fares or other purposes incurred after the lapse in appropriations unless against an available multi-year or a no-year appropriation, trust funds, other permanent appropriations, and the Working Capital Fund. Please follow guidance in paragraph 11 for cash payments deemed absolutely necessary.

9. Collections: Embassy cashiers can continue to process all collections normally.

10. Certifying Officer Responsibility: Post financial management and certifying officers have the responsibility to ensure that only authorized obligations are recorded, and only payments against authorized obligations are certified for payment and disbursement. Edits in our financial systems abroad should ensure that payments are not processed unless a valid obligation has been recorded. Posts should not de-obligate funds previously obligated prior to the lapse in appropriations and re-obligate to new obligations after the lapse in appropriations minus one.

11. Absolutely Necessary Payments: To reiterate, and consistent with OMB guidance, we have authority to incur obligations for excepted activities but cannot expend funds or make payments for excepted activities after the lapse in appropriations. Because our accounting system pays for incurred obligations, we cannot post (record) obligations due to the lapse of appropriations even though obligations have been incurred, nor can we make payments against the incurred but not recorded obligations for current Fiscal Year lapsed appropriations. If it is necessary to make payments in emergency situations (e.g., to safeguard life and property), the bureau or embassy should send a memo or cable, respectively, on a case-specific basis to request use of funds that BP determines may be available for such purposes. Each request should provide details of the date the funds are needed, the amount, the justification, and any other relevant information. Requests of this type should be limited to extreme cases.

12. Repatriation Loans: Post authority to expend up to \$2,000 per applicant without Department approval is temporarily rescinded after a lapse in appropriations. If a post determines that a repatriation loan is necessary during the period of a lapse in appropriations, the post should cable CA/OCS and CA's Comptroller to request funding as mentioned in paragraph 11 above.

13. Emergency Medical Services If the concurrence of MED is received, emergency medical travel and services obligations can be incurred but not recorded. Accordingly, payments against such obligations cannot be made. Please coordinate with MED and follow guidance in paragraph 11 in emergency situations where payment is required immediately. For medical

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services funding requests the post should cable MED and CGFS – USOFFICE Global Financial Services (not the regional bureaus).

14. Other Agencies: For other agencies for which the embassy makes disbursements or processes payments only, Department of State officials must rely on other agency approvals to ensure compliance with the above-described procedures and funds availability. For other agencies for which the embassy provides accounting as well as payment services, the obligation and payment guidance in this cable applies.

vi. Time and Attendance Reporting

During the lapse in appropriations, employees employed by entities in Chapter 2 status must be either (1) performing excepted activities (or otherwise authorized to work), or (2) furloughed. They therefore cannot be in a paid leave status (e.g., annual leave, sick leave, other paid leave or compensatory time off) during that period. Normal hours worked during the furlough period by excepted employees should be reported as regular duty hours.

If excepted employees have emergencies that preclude them from working during this period, their time should be reported as a furloughed employee for that time period. In the case of employees on approved leave without pay during the lapse of appropriations, these absences must continue to be charged to leave without pay.

Reporting time for the first workday of a lapse and subsequent days with a lapse in appropriations: A determination should be made on the amount of time each employee worked on the first furlough day – defined as your first scheduled workday after the lapse in appropriations. The remaining period of time in a furloughed employee's duty day would then be considered furlough time. Specific directions for T&A coding will be provided directly to timekeepers by CGFS. Once a lapse in appropriations is over, CGFS will provide additional time and attendance guidance.

vii. Reopening After a Lapse in Appropriations

Once an appropriations action is signed into law, OMB will notify the Department that the lapse in appropriations has ended and State can begin implementing the plan to orderly resume activity.

All entities should reopen at the opening of their business day on the first business day after an appropriation has been enacted or same day if the core works hours can be supported. Overseas posts may use judgment, taking into account time differences, when deciding to reopen.

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The text of the Notice of Furlough for Civil Service employees is as follows: [Ensure that an SF-8 is attached to this notice]

In the absence of either a current Fiscal Year appropriation or a continuing resolution for the Department of State, no further financial obligations may be incurred by the Department, except for those related to the orderly suspension of the Department's operations or performance of excepted activities as defined in the Office of Management and Budget Memorandum for Heads of Executive Departments and Agencies dated November 17, 1981 and subsequent guidance. You are being placed in a furlough status effective as of the date of this letter because your position is not engaged in one of the identified excepted functions as defined by the Office of Management and Budget. We would hope that the furlough (i.e., non-pay, non-duty status) will not exceed 30 days. **You should monitor public broadcasts and when you hear that a continuing resolution or a current Fiscal Year appropriation for the Department has been approved, you will be expected to return to work on your next regular duty day.** This action is being taken because of a sudden emergency requiring curtailment of the Department's activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404(d)(2). The 30-day advance notice otherwise required by 5 CFR 359.806(a) for Senior Executive Service (SES) career appointees (other than reemployed annuitants) may be shortened or waived.

If other employees are being retained in your competitive level or competitive area, they are required for orderly suspension of our operations or they are performing one of the excepted activities defined in the OMB memorandum.

During the furlough period, you will be in a non-pay, non-duty status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer, and therefore you must remain away from your workplace unless and until recalled. In addition, a furloughed employee may not work remotely by, for example, using a fob, Blackberry, or other Department-issued mobile device. You should turn off all Department-provided mobile devices. You may, however, be permitted into the building for personal business at the credit union or to obtain forgotten items from your office. Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled. **Your position status may change during the furlough period, and you may be recalled to work. If your position status changes, you will be notified by your office regarding when you must report for duty.**

Employees who have completed a probationary or trial period or 1 year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board (MSPB). Employees in the excepted service who have veterans preference may appeal to MSPB if they have completed 1 year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veterans preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed 2 years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to 2 years or less.

Appeal Rights

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If you are not sure which of the following appeal rights apply to you, please review your SF-50 and/or contact your Executive Director or Management Office.

I. If you are a probationary employee, the following appeal rights apply:

1. Merit Systems Protection Board

You have limited rights to file an appeal of this action with the Merit Systems Protection Board (MSPB). You may appeal this action only if you believe that it is (a) motivated by partisan political reasons or marital status; or (b) based on a pre-appointment reason, whether the agency failed to take required procedures. You must file your appeal within 30 calendar days after the effective date of the action or receipt of this notice, whichever is later. If you do not file an appeal within the 30-day period, it will be dismissed as untimely filed unless good reason for the delay is shown. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. The MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. The MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. If you wish to file an appeal and you do not have access to the internet, contact your Executive Office to obtain a copy of the MSPB regulations and appeal form and the address of the MSPB regional office having jurisdiction. For employees in the Washington, D.C. area, appeals to the MSPB should be addressed to:

Merit Systems Protection Board
Washington, DC Regional Office
1800 Diagonal Road, Suite 205
Alexandria, VA 22314-2840

For employees outside of the Washington, D.C. area, please contact your Executive Office for information about the address of the appropriate MSPB field office. If you choose to appeal to the MSPB, the MSPB should send the Acknowledgment Order and appeal to the following Department point of contact:

Office of the Legal Adviser (L/EMP)
U.S. Department of State
2201 C Street, NW, Room 5425
Washington, D.C. 20520
Fax: 202-647-6794
Telephone No.: 202-647-4646

2. Office of Special Counsel

If you feel this action is being taken as a result of reprisal for making a protected whistleblowing disclosure or for engaging in any of the protected activities outlined in 5 U.S.C. § 2302(b)(9), you may raise the matter by either filing a MSPB appeal (if the action is otherwise

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appealable to the MSPB, as outlined above) or by filing a complaint with the Office of Special Counsel (OSC), followed by (for claims of whistleblower reprisal or claims relating to protected activities under 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D)) an Individual Right of Action (IRA) appeal to the MSPB. If you elect to file a complaint with OSC prior to filing an appeal with the MSPB, you will be deemed to have elected corrective action under subchapters II and III of 5 U.S.C. Chapter 12, which can be followed by an IRA appeal to the MSPB; your IRA appeal in such a case is solely limited to resolving the claim(s) of reprisal for whistleblowing or other protected activity. For further information regarding your rights to seek corrective action, please refer to 5 U.S.C. § 1221 and 5 C.F.R. §§ 1209.2 & 1209.5.

3. Unlawful Discrimination

If you believe this action was motivated by unlawful discrimination based on race, color, religion, sex, national origin, age, disability, or genetic information and the action is otherwise appealable to the MSPB, as outlined above, you may raise such allegations either in a mixed case appeal with the MSPB or in a mixed case complaint with the Department's Office of Civil Rights. You may not file both.

A mixed case appeal is filed with the MSPB and must be made within the timeframe explained above. A mixed case EEO complaint is initiated by contacting an EEO counselor within 45 days of the effective date of this action and filing a formal complaint of discrimination after EEO counseling is completed. For further information on filing a mixed case appeal or a mixed case EEO complaint, please refer to the MSPB's regulations at 5 C.F.R. § 1201.151 et seq. and the EEOC's regulations at 29 C.F.R. § 1614.302.II.

II. If you are not a probationary employee and are not covered by a Negotiated Grievance Procedure, the following appeal rights apply:

1. Merit Systems Protection Board

You have a right to appeal this action to the Merit Systems Protection Board (MSPB) within 30 calendar days after the effective date of the action or receipt of this decision, whichever is later. If you do not file an appeal within the 30-day period, it will be dismissed as untimely filed unless good reason for the delay is shown. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. The MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. The MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. If you wish to file an appeal and you do not have access to the internet, contact your Executive Office to obtain a copy of the MSPB regulations and appeal form and the address of the MSPB regional office having jurisdiction. For employees in the Washington, D.C. area, appeals to the MSPB should be addressed to:

Merit Systems Protection Board
Washington, DC Regional Office
1800 Diagonal Road, Suite 205

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Alexandria, VA 22314-2840

For employees outside of the Washington, D.C. area please contact your Executive Office for information about the address of the appropriate MSPB field office. If you choose to appeal to the MSPB, the MSPB should send the Acknowledgment Order and appeal to the following Department point of contact:

Office of the Legal Adviser (L/EMP)
U.S. Department of State
2201 C Street, NW, Room 5425
Washington, D.C. 20520
Fax: 202-647-6794
Telephone No.: 202-647-4646

2. Office of Special Counsel

If you feel this action is being taken as a result of reprisal for making a protected whistleblowing disclosure or for engaging in any of the protected activities outlined in 5 U.S.C. § 2302(b)(9), you may raise the matter by either filing a MSPB appeal as outlined above or by filing a complaint with the Office of Special Counsel (OSC), followed by (for claims of whistleblower reprisal or claims relating to protected activities under 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D)) an Individual Right of Action (IRA) appeal to the MSPB. If you elect to file a complaint with OSC prior to filing an appeal with the MSPB, you will be deemed to have elected corrective action under subchapters II and III of 5 U.S.C. Chapter 12, which can be followed by an IRA appeal to the MSPB; your IRA appeal in such a case is solely limited to resolving the claim(s) of reprisal for whistleblowing or other protected activity. For further information regarding your rights to seek corrective action, please refer to 5 U.S.C. § 1221 and 5 C.F.R. §§ 1209.2 & 1209.5.

3. Unlawful Discrimination

If you believe this action was motivated by unlawful discrimination based on race, color, religion, sex, national origin, age, disability, or genetic information, you may raise such allegations either in a mixed case appeal with the MSPB or in a mixed case complaint with the Department's Office of Civil Rights. You may not file both.

A mixed case appeal is filed with the MSPB and must be made within the timeframe explained above. A mixed case EEO complaint is initiated by contacting an EEO counselor within 45 days of the effective date of this action and filing a formal complaint of discrimination after EEO counseling is completed. For further information on filing a mixed case appeal or a mixed case EEO complaint, please refer to the MSPB's regulations at 5 C.F.R. § 1201.151 et seq. and the EEOC's regulations at 29 C.F.R. § 1614.302.

III. If you are not a probationary employee and are covered by a Negotiated Grievance Procedure, the following appeal rights apply:

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1. Merit Systems Protection Board

You have a right to appeal this action to the Merit Systems Protection Board (MSPB) within 30 calendar days after the effective date of the action or receipt of this decision, whichever is later. If you do not file an appeal within the 30-day period, it will be dismissed as untimely filed unless good reason for the delay is shown. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. The MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. The MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. If you wish to file an appeal and you do not have access to the internet, contact your Executive Office to obtain a copy of the MSPB regulations and appeal form and the address of the MSPB regional office having jurisdiction. For employees in the Washington, D.C. area, appeals to the MSPB should be addressed to:

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For employees outside of the Washington, D.C. area, please contact your Executive Office for information about the address of the appropriate MSPB field office. If you choose to appeal to the MSPB, the MSPB should send the Acknowledgment Order and appeal to the following Department point of contact:

Office of the Legal Adviser (L/EMP)
U.S. Department of State
2201 C Street, NW, Room 5425
Washington, D.C. 20520
Fax: 202-647-6794
Telephone No.: 202-647-4646

2. Office of Special Counsel

If you feel this action is being taken as a result of reprisal for making a protected whistleblowing disclosure or for engaging in any of the protected activities outlined in 5 U.S.C. § 2302(b)(9), you may raise the matter by either filing a MSPB appeal as outlined above or by filing a complaint with the Office of Special Counsel (OSC), followed by (for claims of whistleblower reprisal or claims relating to protected activities under 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D)) an Individual Right of Action (IRA) appeal to the MSPB. If you elect to file a complaint with OSC prior to filing an appeal with the MSPB, you will be deemed to have elected corrective action under subchapters II and III of 5 U.S.C. Chapter 12, which can be followed by an IRA appeal to the MSPB; your IRA appeal in such a case is solely limited to resolving the claim(s) of reprisal for whistleblowing or other protected activity. For further information regarding your rights to seek corrective action, please refer to 5 U.S.C. § 1221 and 5 C.F.R. §§ 1209.2 & 1209.5.

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3. Unlawful Discrimination

If you believe this action was motivated by unlawful discrimination based on race, color, religion, sex, national origin, age, disability, or genetic information, you may raise such allegations either in a mixed case appeal with the MSPB or in a mixed case complaint with the Department's Office of Civil Rights. You may not file both.

A mixed case appeal is filed with the MSPB and must be made within the timeframe explained above. A mixed case EEO complaint is initiated by contacting an EEO counselor within 45 days of the effective date of this action and filing a formal complaint of discrimination after EEO counseling is completed. For further information on filing a mixed case appeal or a mixed case EEO complaint, please refer to the MSPB's regulations at 5 C.F.R. § 1201.151 et seq. and the EEOC's regulations at 29 C.F.R. § 1614.302.

4. Negotiated Grievance Procedure

A. For employees covered by NFFE:

Since you occupy a position in the bargaining unit for which the National Federation of Government Employees (NFFE), Local 1998, holds exclusive recognition, you are also entitled to grieve this decision under the provisions of Articles 20 and 24 of the Negotiated Labor-Management Agreement between the Department of State and NFFE. If you decide to submit a grievance, you must do so within 30 calendar days from the effective date of the action. The name of the union president is Rob Arnold; he can be reached at (206) 346-2905. Your grievance must be submitted to the Deputy Assistant Secretary for Passport Services (CA/PPT).

NOTE REGARDING ELECTION OF REMEDIES:

Pursuant to statute and the terms of the Negotiated Labor Management Agreement, you may select only one of the following avenues for redress: (1) file an appeal to the MSPB; (2) file a formal EEO complaint with OCR (3) file a complaint with OSC, which can be followed by an IRA appeal filed with the MPSB; or (4) file a grievance under Articles 20 and 24 of the Negotiated Labor-Management Agreement. An election is deemed to have been made based on which of these four (4) actions you file first.

Please note that if you file a formal EEO complaint with OCR, you have not waived your right to file a complaint with OSC, which can be followed by an IRA appeal filed with the MPSB.

The sole exception to this election of remedies is if you believe that this action was motivated, in whole or in part, by unlawful discrimination based on race, color, religion, sex, national origin, age, disability, marital status, or political affiliation and you choose to file a grievance under the Negotiated Labor Management Agreement, you have the right to request review of a final decision on the grievance by the MSPB or the EEOC. Your request for review by the MPSB must be filed within 30 calendar days of the date you received the final decision (or within 35 calendar days of the date the final decision is issued, if you received it more than 5

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days after the date of issuance). A full description of your right to pursue a grievance and request Board review of a final decision on the grievance is found at 5 U.S.C. § 7121 and § 7702.

B. For employees covered by AFGE (non-professional bargaining unit)

Since you occupy a position in the bargaining unit for which the American Federation of Government Employees (AFGE), Local 1534, holds exclusive recognition, you are also entitled to grieve this decision under the provisions of Articles 20 and 21 of the Negotiated Labor-Management Agreement between the Department of State and AFGE. If you decide to submit a grievance, you must do so within 30 calendar days from the effective date of the action.

NOTE REGARDING ELECTION OF REMEDIES:

Pursuant to statute and the terms of the Negotiated Labor Management Agreement, you may select only one of the following avenues for redress: (1) file an appeal to the MSPB; (2) file a complaint with OSC, which can be followed by an IRA appeal filed with the MPSB; or (3) file a grievance under Articles 20 and 21 of the Negotiated Labor-Management Agreement. An election is deemed to have been made based on which of these three (3) actions you file first.

IV. Career SES

Career SES appointees (except reemployed annuitants) who believe requirements of 5 CFR part 359, subpart H, or the agency's procedures have not been correctly applied may also appeal to MSPB as described under parts I or II above. Career SES appointees may inspect the regulations and records pertinent to this action. Please contact your Executive Director or Management Office to schedule a time and location for such inspection.

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the agency funding level becomes available. If you have questions, contact your bureau Executive Director or Management Officer.

Deciding Official

Date

Attachment B

The text of the Notice of Furlough for Foreign Service employees is as follows: [Ensure that an SF-8 is attached to this notice]

In the absence of either a current Fiscal Year appropriation or a continuing resolution for the Department of State, no further financial obligations may be incurred by the Department, except for those related to the orderly suspension of the Department's operations or performance of excepted activities as defined in the Office of Management and Budget Memorandum for Heads of Executive Departments and Agencies dated November 17, 1981 and subsequent guidance. You are being placed in a furlough status effective as of the date of this letter because your position is not engaged in one of the identified excepted functions as defined by the Office of Management and Budget. We would hope that the furlough (i.e., non-pay, non-duty status) will not exceed 30 days. You should monitor public broadcasts and when you hear that a continuing resolution or a current Fiscal Year appropriation for the Department has been approved by Congress and signed by the President, you will be expected to return to work on your next regular work day.

This action is being taken because of a sudden emergency requiring curtailment of the Department's activities.

If other employees are being retained, they are required for orderly suspension of our operations or they are performing one of the excepted activities defined in the OMB memorandum.

When you are on furlough, you will be in a non-pay, non-duty status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer, and therefore you must remain away from your workplace unless and until recalled. In addition, a furloughed employee may not work remotely by, for example, using a fob, Blackberry, or other Department-issued mobile device. You should turn off all Department-provided mobile devices. You may, however, be permitted into the building for personal business at the credit union or to obtain forgotten items from your office. Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled. **Your position status may change during the furlough period, and you may be recalled to work. If your position status changes, you will be notified by your office regarding when you must report for duty.**

If you wish to file a grievance regarding this action under the Foreign Service grievance system, you may do so pursuant to the procedures set out in 3 FAM 4400. If you require information concerning the Department's grievance procedures, you may contact the Grievance Staff, HR/G, (202) 261-8110.

If you feel this action is being taken as a result of reprisal for making a protected whistleblowing disclosure or for engaging in any of the protected activities outlined in 5 U.S.C. § 2302(b)(9), you may file a complaint with the Office of Special Counsel (OSC), followed by (for claims of whistleblower reprisal or claims relating to protected activities under 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D)) an Individual Right of Action (IRA) appeal to the MSPB. For further information regarding your rights to seek corrective action, please refer to 5 U.S.C. § 1221 and 5 C.F.R. §§ 1209.2 & 1209.5.

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If you believe this action was motivated by unlawful discrimination based on race, color, religion, sex, national origin, age, disability, or genetic information, you may raise such allegations in a complaint with the Department's Office of Civil Rights. An EEO complaint is initiated by contacting an EEO counselor within 45 days of the effective date of this action and filing a formal complaint of discrimination after EEO counseling is completed. For further information on filing an EEO complaint, please refer to the EEOC's regulations at 29 C.F.R. § 1614.105.

You may have additional appeal rights to the Merit Systems Protection Board (MSPB) in the event that any furlough extends more than 30 days. 5 C.F.R. § 351.901.

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the agency funding level becomes available. If you have questions, contact your bureau Executive Director or Post Management Officer.

Deciding Official

Date

Attachment C

SAMPLE NOTICE OF FURLOUGH DURING INTERMITTENT ABSENCES TO EXCEPTED EMPLOYEE [Ensure that an SF-8 is attached to this notice]

In the absence of either a Fiscal Year (FY) appropriation, or a continuing resolution for the Department of State, no new financial obligations may be incurred by the Department for functions funded through annual appropriations, except with respect to certain personnel who are otherwise authorized to continue to work.

As you are aware, as an employee who has been excepted from furlough and continue to work during the shutdown, you are required to work on those days you would normally be scheduled to work. Because of the operation of the shutdown furlough rules, however, we must place you in a furlough status for the following dates: [state applicable date(s)]. As an excepted employee, you are expected to return to work on your next regularly scheduled workday following the lapse in appropriations.

This action is being taken because of a sudden emergency requiring curtailment of the Department's activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404(d)(2). The 30 day-advance notice otherwise required by 5 CFR 359.806(a) for Senior Executive Service (SES) career appointees (other than reemployed annuitants) may be shortened or waived.

If employees are being retained in your competitive level or competitive area, they are required for orderly suspension of our operations or they are performing one of the excepted activities defined in the OMB memorandum.

During the furlough period, you will be in a non-duty, non-pay status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer, and therefore you must remain away from your workplace unless and until recalled. In addition, a furloughed employee may not work remotely by, for example, using a fob, Blackberry, or other Department-issued mobile device. You should turn off all Department-provided mobile devices. You may, however, be permitted into the building for personal business at the credit union or to obtain forgotten items from your office. Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled. **Your position status may change during the furlough period, and you may be recalled to work. If your position status changes, you will be notified by your office regarding when you must report for duty.**

Employees who have completed a probationary or trial period or 1 year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board (MSPB). Employees in the excepted service who have veterans preference may appeal to MSPB if they have completed 1 year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veterans preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed 2 years of current continuous service in the same or

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similar positions in an Executive agency under other than a temporary appointment limited to 2 years or less.

Career SES appointees (except reemployed annuitants) who believe requirements of 5 CFR part 359, subpart H, or the agency's procedures have not been correctly applied may also appeal to MSPB. Career SES appointees may inspect the regulations and records pertinent to this action. Please contact your Executive Director or Management Office to schedule a time and location for such inspection.

If you have the right of appeal to MSPB and wish to appeal this action to the MSPB, you must file the appeal within 30 calendar days after the effective date of your furlough, or 30 days after the date of your receipt of this decision notice whichever is later. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. You may wish to check MSPB's website for its operating status during this time. MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. Based upon your duty station, the appropriate field office is [identify appropriate regional office]. MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.

Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement [provide citation to negotiated agreement] or may appeal to MSPB in accordance with the procedures outlined above, but not both. To obtain information on filing a grievance under the negotiated grievance procedure, contact [name of exclusive union representative].

If you feel this action is being taken as a result of reprisal for making a protected whistleblowing disclosure or for engaging in any of the protected activities outlined in 5 U.S.C. § 2302(b)(9), you may file a complaint with the Office of Special Counsel (OSC), followed by (for claims of whistleblower reprisal or claims relating to protected activities under 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D)) an Individual Right of Action (IRA) appeal to the MSPB. For further information regarding your rights to seek corrective action, please refer to 5 U.S.C. § 1221 and 5 C.F.R. §§ 1209.2 & 1209.5.

If you believe this action was motivated by unlawful discrimination based on race, color, religion, sex, national origin, age, disability, or genetic information, you may raise such allegations in a complaint with the Department's Office of Civil Rights. An EEO complaint is initiated by contacting an EEO counselor within 45 days of the effective date of this action and filing a formal complaint of discrimination after EEO counseling is completed. For further information on filing an EEO complaint, please refer to the EEOC's regulations at 29 C.F.R. § 1614.105

Attached is the SF-8, *Notice to Federal Employee about Unemployment Insurance*. Additional information about unemployment insurance is available at: <http://www.servicelocator.org/OWSLinks.asp>.

Attachment C

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the agency funding level becomes available. If you have questions, contact your bureau Executive Director or Post Management Officer.

Deciding Official

Date

Attachment D

SAMPLE NOTICE OF FURLOUGH DURING HOLIDAY TO EXCEPTED EMPLOYEE DUE TO A LAPSE OF APPROPRIATIONS [Ensure that an SF-8 is attached to this notice]

In the absence of either a Fiscal Year (FY) appropriation, or a continuing resolution for the Department of State, no new financial obligations may be incurred by the Agency for functions funded through annual appropriations, except with respect to certain personnel who are otherwise authorized to continue to work.

As you are aware, as an employee who has been excepted from furlough and continue to work during the shutdown, you are required to work on those days you would normally be scheduled to work. The upcoming [state holiday] on [state date], is not a day you would normally be scheduled to work, and we are not requiring you to work on that day. Because of the operation of the shutdown furlough rules, we must place you in a furlough status for the [state holiday] holiday. As an excepted employee, you are expected to return to work on your next regularly scheduled workday following the [state holiday] holiday. For the vast majority of you, this means you would return to work on [state date].

If you have a work schedule that does not include [state date], as a workday, you will follow the normal holiday rules for an “in lieu of” holiday. All full-time employees, including those on flexible or compressed work schedules, are entitled to an “in lieu of” holiday when a holiday falls on a non-workday. For example, if you have a Monday through Friday alternative work schedule (AWS), and [state holiday] is your regularly scheduled AWS day off, you will do as you have generally done for previous holidays and take your “in lieu of” holiday the work day immediately preceding Monday. For example, if the holiday is Monday, [insert date], your “in lieu of” holiday would be Friday, [insert date]. You would be in furlough status on Friday instead of Monday in this example. You would return to work on Tuesday, [insert date], because your regular day off is on Monday, [insert date].

This can be a bit confusing, so if you do not fall in the category above of working a Monday through Friday schedule and/or are unclear of when your “in-lieu of” holiday is to occur, please consult with your supervisor. In the event your supervisor is unavailable, please call or email your executive office.

This action is being taken because of a sudden emergency requiring curtailment of the agency’s activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404(d)(2). The 30 day-advance notice otherwise required by 5 CFR 359.806(a) for Senior Executive Service (SES) career appointees (other than reemployed annuitants) may be shortened or waived. If employees are being retained in your competitive level or competitive area, they are required for orderly suspension of agency operations or they are performing one of the excepted activities defined in the OMB memorandum.

During the furlough period, you will be in a non-duty, non-pay status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer, and therefore you must remain away from your workplace unless and until recalled. In addition, a furloughed employee may not work remotely by, for example, using a fob, Blackberry, or other Department-issued mobile

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device. You may, however, be permitted into the building for personal business at the credit union or to obtain forgotten items from your office. Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled.

Employees who have completed a probationary or trial period or 1 year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board (MSPB). Employees in the excepted service who have veterans preference may appeal to MSPB if they have completed 1 year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veterans preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed 2 years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to 2 years or less.

Career SES appointees (except reemployed annuitants) who believe requirements of 5 CFR part 359, subpart H, or the agency's procedures have not been correctly applied may also appeal to MSPB. Career SES appointees may inspect the regulations and records pertinent to this action at the following location: [identify location and times, as appropriate].

If you have the right of appeal to MSPB and wish to appeal this action to the MSPB, you must file the appeal within 30 calendar days after the effective date of your furlough, or 30 days after the date of your receipt of this decision notice whichever is later. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. Based upon your duty station, the appropriate field office is [identify appropriate regional office]. MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. You may wish to check MSPB's website for its operating status during this time. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.

Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement [provide citation to negotiated agreement] or may appeal to MSPB in accordance with the procedures outlined above, but not both. To obtain information on filing a grievance under the negotiated grievance procedure, contact [name of exclusive union representative].

If you feel this action is being taken as a result of reprisal for making a protected whistleblowing disclosure or for engaging in any of the protected activities outlined in 5 U.S.C. § 2302(b)(9), you may file a complaint with the Office of Special Counsel (OSC), followed by (for claims of whistleblower reprisal or claims relating to protected activities under 5 U.S.C. § 2302(b)(9)(A)(i), (B), (C), or (D)) an Individual Right of Action (IRA) appeal to the MSPB. For further information regarding your rights to seek corrective action, please refer to 5 U.S.C. § 1221 and 5 C.F.R. §§ 1209.2 & 1209.5.

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If you believe this action was motivated by unlawful discrimination based on race, color, religion, sex, national origin, age, disability, or genetic information, you may raise such allegations in a complaint with the Department's Office of Civil Rights. An EEO complaint is initiated by contacting an EEO counselor within 45 days of the effective date of this action and filing a formal complaint of discrimination after EEO counseling is completed. For further information on filing an EEO complaint, please refer to the EEOC's regulations at 29 C.F.R. § 1614.105

Attached is the SF-8, *Notice to Federal Employee about Unemployment Insurance*. Additional information about unemployment insurance is available at:
<http://www.servicelocator.org/OWSLinks.asp>.

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the agency funding level becomes available. If you have questions, contact your bureau Executive Director or Post Management Officer.

Deciding Official

Date

Attachment E

Status of Accounts as of **November 21, 2019**

(This page will be updated frequently as residual balances are assessed ahead of and following a lapse in appropriations.)

- Subject to lapse in appropriation:
 - Office of the Inspector General
 - International Boundary and Water Commission Salary and Expenses
 - American Sections
- Not subject to lapse in appropriation at this time:
 - Diplomatic Programs
 - Worldwide Security Protection (Covers all DS and 90+ security positions in other bureaus)
 - Consular and Border Security Program (Covers all of CA and other consular support personnel)
 - International Cooperative Administrative Support Services
 - Working Capital Fund
 - Embassy, Security, Construction, and Maintenance (Covers all of OBO)
 - Educational and Cultural Exchange Programs
 - American Institute in Taiwan
 - Global Health
 - International Narcotics and Law Enforcement
 - Migration and Refugee Assistance
 - Defense Trade Control Fees